

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STARLIN NUNEZ,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.

17-CR-0438-01 (VEC)

21-CV-9606 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Movant Starlin Nunez pleaded guilty before the Honorable Valerie E. Caproni of this court to racketeering conspiracy, in violation of 18 U.S.C. § 1962. The court sentenced him to a term of imprisonment of 108 months, followed by a three-year term of supervised release. *See United States v. Nunez*, ECF 1:17-CR-0438-1, 517 (S.D.N.Y. Mar. 25, 2019). Movant did not file a direct appeal.

On November 17, 2021, Movant filed an action *pro se*, using form AO 242, Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241, and on November 18, 2021, the Clerk of Court opened the submission as a new civil action under docket number 21-CV-9557. In question 10 of the form petition, Movant indicated that he seeks to challenge the validity of his conviction or sentence as a motion under 28 U.S.C. § 2255. (ECF 1:21-CV-9557, 1, at 4.)

On November 19, 2021, due to a clerical error, the Clerk of Court opened the same submission as a second new civil action under docket number 21-CV-9606. Because this submission was previously opened as a new civil action and is currently pending in this court under docket number 21-CV-9557, the Clerk of Court is directed to administratively close this case, 21-CV-9606.

CONCLUSION

The Clerk of Court is directed to administratively close this action, 21-CV-9606. The case under 21-CV-9557 will remain open, and Movant must pursue relief in that case. No further submissions should be filed in this case.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

The Clerk of Court is directed to mail a copy of this order to Movant and note service on the docket.

SO ORDERED.

Dated: November 19, 2021
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge